IN THE HIGH COURT OF BOMBAY AT GOA

WRIT PETITION NO. 557 OF 2004

MR. ULRICH ANGERER,COLVA GOA. ....Petitioners

Versus

THE GOA COSTAL ZONE MANAGEMENT,SALIGAO GOA. ....Respondents

Mr. A. F. Diniz, advocate for the petitioner.
Mr. S. S. Kantak, Advocate General with Ms. R. Chodankar, Additional Government Advocate for the respondent.

Coram:- R. M. LODHA, J.

Date:- 31st August, 2005

P.C.

Heard the learned counsel for the petitioner and perused the Order dated 26th October, 2004 passed by the Goa Coastal Zone Management Authority (for short "the Authority").

Paragraph 6 of the impugned Order observes thus:-

"6. Admittedly all documents produced by the Party are of the post 1991 period. The original Survey Plan available with the GCZMA does not reflect the structure. This is confirmed by the Sale Deed made in the year 1992, which does not show any house or building in the schedule appended to it. If indeed the plot purchased by the Party in the year 1992, had a modern house with an area of 75,00 m2 as is apparent today, it is inconceivable that it was not shown in the said Sale Deed because of an error, as contended by the Party. Further, all other documents produced by the Party were issued in the post 1991 period i.e., after the coming into force of the CRZ Notification of 1991."

It is clear from the aforesaid finding and which does not seem to suffer from any infirmity, that the offending structure has come into existence after 19th February, 1991. The learned counsel for the petitioner did not

dispute that the subject structure falls within 200 mts.of the High Tide Line. He, however, relied upon Clause II (ii)(a) of the Order dated 26th November, 1998, issued by the Authority in exercise of the powers conferred by Sub-sections (1) and (3) of Section 3 of the Environment Protection Act, 1986, and submitted that it is not that in each and every case of violation the demolition order should be passed; it can only be done if it is found necessary in a specific case by the Authority. The contention has no merit and does not deserve to be accepted. The mere fact that the offending structure has come into existence after 19th February, 1991, i.e. after the coming into force of the Coastal Regulation Zone Notification of 1991 and that it falls within 200 mts. of the High Tide Line, it is but necessary that the offending structure must be demolished and that is what the Authority has ordered. The Specific finding that it is found necessary that the structure should be demolished is not required. The very consideration by the Authority shows that the Authority found it necessary that the offending structure is in violation of the CRZ Notification of 1991 and must be demolished.

The Order is evidently just and proper and warrants no interference in extraordinary jurisdiciton of this Court under Articles 226 and 227 of the Constitution of India.

The Writ Petition is dismissed in limine.

R. M. LODHA, J.